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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,533	09/29/2000	Rabah Hamdi	1662-28700 (P99-2774)	2633

7590 09/30/2003
Conley, Rose & Tayon
P.O. Box 3267
Houston, TX 77253-3267

EXAMINER

DU, THUAN N

ART UNIT	PAPER NUMBER
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2185

DATE MAILED: 09/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/675,533

Applicant(s)

HAMDI, RABAH

Examiner

Thuan N. Du

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-23 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 and 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the limitations "the transmission node" in line 3 and "the preferred power level" in line 5. There are insufficient antecedent basis for these limitations in the claim.
5. Claim 20 recites the limitation "the transmission media" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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7. Claims 1, 10 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Hämäläinen et al. [Hämäläinen], (U.S. Patent No. 6,289,217).

8. Regarding claim 1, Hämäläinen teaches a method of adaptive power control in a network system comprising the steps of:

 sending a training packet from a transmission node (mobile station) of the network to a receiving node (base station) in the network at a predetermined power level (given initial power) [col. 12, lines 40-41];

 determining a preferred power level for reliable communications between the transmission node and the receiving node [col. 12, lines 41-44];

 sending a configuration packet from said receiving node to said transmission node including the preferred power level for communication [col. 12, lines 44-52].

Hämäläinen does not explicitly teach the step of sending a primary data communication from the transmission node to the receiving node at the preferred power level. Hämäläinen teaches “a method which combines the adjusting of the transmission power and a dynamic variation of the data transmission capacity reserved for a given connection.” (emphasis added by the examiner). Therefore, Hämäläinen implicitly teaches the claimed step of sending a primary data communication from the transmission node to the receiving node at the preferred power level.

9. Regarding claims 10 and 20, Hämäläinen teaches the claimed method steps. Therefore, Hämäläinen teaches the apparatus to implement the claimed method steps.

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Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-9, 11-19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hämäläinen et al. [Hämäläinen], (U.S. Patent No. 6,289,217).

12. Regarding claims 2-9, these claims are directed to method steps for adaptively controlling power in a network system of claim 1. As stated above, Hämäläinen teaches the invention substantially as set forth in claim 1. At the time of the invention, one of ordinary skill in the art would have readily recognized that Hämäläinen may obviously also teach the method steps of claim 1 as set forth in claims 2-9. As such, claims 2-9 are rejected under the same rationale with respect to claim 1.

13. Regarding claims 11-19 and 21-23, Hämäläinen teaches the claimed method steps. Therefore, Hämäläinen teaches the apparatus to implement the claimed method steps.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (703) 308-6292 or via e-mail, **thuan.du@uspto.gov**. The examiner can normally be reached on Monday-Friday: 9:00 AM - 5:30 PM, EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on (703) 305-9717.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

- (703) 746-7238 [After Final Communication]
- (703) 746-7239 [Official Communication]
- (703) 746-7240 [Non-Official Communication]

and/or:

(703) 746-5668 (use this fax number, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication).

Hand-delivered responses should be brought to:

Crystal Park II
2121 Crystal Drive
Arlington, VA 22202
Fourth Floor (Receptionist).



THOMAS LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Thuan N. Du
September 17, 2003